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To	John White	From	Chris Klein		
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BMS PATENT LAW

FEB 24 2003

MARLA J. MATHIAS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

Docketed Item HP

Due Date 3/1/03

Attorney John White

: WITHDRAWAL OF ABANDONMENT
:
:

In re Application of
Collin J. Weber et al
Serial No.: 09/049,865
Filed: March 27, 1998
Attorney Docket No.: 47765-C

This is in response to the petition under 37 CFR 1.181, filed November 1, 2002, requesting withdrawal of the holding of abandonment of the above identified application.

A review of the file history shows that the examiner mailed an Office action to applicants on April 10, 2001, setting a three month shortened statutory period for reply. The body of the Office action stated that it was a Final Office action, however the first page summary sheet did not so indicate. Applicants replied to the Office action on July 11, 2001, with a paper entitled "Amendment in Response to April 10, 2001 Final Office Action", thus acknowledging the finality of the Office action. Receipt of the amendment was acknowledged in a telephone interview on July 23, 2001. The examiner mailed an Advisory action to applicants on January 15, 2002, denying entry of the amendment and mailed a Notice of Abandonment to applicants on May 7, 2002. Applicants' attorney noted the delay in filing this petition is due to the Office action being sent to Bristol-Myers Squibb (BMS) rather than to Cooper & Dunham. However, on October 27, 2000, a change of practitioner and correspondence address for the application was filed with the Office designating Customer # 23914 for correspondence. Thus all Office actions mailed after October 27, 2000, were mailed to the above address of record. If this is incorrect, a letter correcting the correspondence address must be filed. It is also not clear why it required two months for BMS to forward the Notice of Abandonment to the corresponding attorney when other Office actions were normally forwarded within a week of receipt. Nevertheless, the Office and examiner erred in not clearly marking the first page Office action summary sheet as a Final Office action. As a consequence thereof, the Office action must be considered a non-Final Office action. In view of a timely reply by applicants, the Notice of Abandonment was mailed in error and is hereby withdrawn and the application restored to pending status with the mailing of this decision.

Applicants' petition is **GRANTED**. The CPA papers filed with the petition will be disregarded as they are not proper as the last Office action has been determined not to be a Final Office action. The conditional petition under 37 CFR 1.137(b) is also dismissed as moot in view of the above petition decision.

The application will be forwarded to the examiner for entry of the amendment filed July 11, 2001, and further consideration.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.



Jasmine C. Chambers
Director, Technology Center 1600